FRED WILLIAMSON & ASSOCIATES, INC.
Telecommunications Management Services

DOCKET FILE COPY ORIGINAL

July 15, 1998

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: CC Docket No. 98-77
Access Charge Reform for
Incumbent Local Exchange Carriers
Subject to Rate-of-Return
Regulation

Dear Ms. Salas:

Enclosed please find the original and seventeen (17) copies of the Comments of Fred Williamson & Associates, Inc., to be submitted and filed in the above-referenced docket.

Please file-stamp the additional enclosed copy and return it in the enclosed self-addressed, stamped envelope.

Sincerely,

FRED WILLIAMSON & ASSOCIATES, INC.

Marc A. Stone
Senior Manager

MAS/bls

Enclosure

No. of Copies rec'd 0+17
List ABCDE

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform for Incumbent	)	CC Docket No. 98-77
Local Exchange Carriers Subject to	)	
Rate-of-Return Regulation	)	

COMMENTS OF
FRED WILLIAMSON & ASSOCIATES, INC.
IN RESPONSE TO NOTICE OF
PROPOSED RULEMAKING

July 17, 1998

Fred Williamson & Associates, Inc.
2921 E. 91st St.. Suite 200
Tulsa, OK 74137

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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COMMENTS OF
FRED WILLIAMSON & ASSOCIATES, INC.
IN RESPONSE TO NOTICE OF
PROPOSED RULEMAKING

Fred Williamson & Associates, Inc. ("FW&A") respectfully submits these Comments in response to the Federal Communications Commission's ("FCC") Notice of Proposed Rulemaking, FCC 98-101, released June 4, 1998, in the above-styled cause ("NPRM"). The FCC seeks comment in this docket regarding the process of reforming the access charge rate structure for rate-of return local exchange carriers which began with the FCC's Access Charge Reform Order[1]. In this NPRM the FCC proposes adopting modifications for rate-of-return companies to the transport rate structure, the reallocation of costs in the transport interconnection charge ("TIC"), and the amendments reflecting

[1] *Access Charge Reform*, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997) (*Access Charge Reform Order*); Order on Reconsideration, 12 FCC Rcd 10119 (1997).

changes to the universal service implementation process similar to those adopted for price cap companies[2].

Introduction and Background

FW&A is a telecommunications management consulting organization located in Tulsa, Oklahoma, serving predominantly investor-owned, small, rural, independent telephone companies in Oklahoma, Kansas and Nebraska. All FW&A client companies are currently participants/receivers of existing Universal Service Fund ("USF") annual monies, including High Cost Loop, Dial Equipment Minutes ("DEM") and Long Term Support ("LTS"). All FW&A client companies are substantially less than 200,000 access lines in size. Additionally, FW&A clients are members in, and participants of, the pooling processes of the National Exchange Carriers Association ("NECA"), and they all concur in the Interstate Access tariff schedules and rates filed by NECA (Tariff FCC No. 5).

FW&A, on behalf of its client companies, has been and will continue to be actively involved in the FCC dockets and related proceedings addressing Access Charge Reform, Separations Reform and Universal Service[3]. FW&A has provided comments previously in each respective docket to address client concerns, and appreciates the opportunity to provide these Comments herein.

The Comments herein are provided from the perspective of our individual rural, sparsely populated and geographically expansive clients to address the specific concerns

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[2] NPRM, ¶ 3.

[3] *Access Charge Reform*, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997) (*Access Charge Reform Order*); *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Notice of Proposed Rulemaking, 12 FCC Rcd 22120 (1997); and *Federal-*

these companies experience as small rural telecommunications carriers who are providing consumer responsive, technologically innovative and up-to-date services in their respective certificated service areas. These Comments focus on those issues addressed in the instant docket that may directly or indirectly affect the interests of our clients and their customers. These Comments, therefore, express the valid and legitimate concerns of small rural carriers regarding decisions of this Commission which could negatively impact existing support mechanisms and the associated cash flow derived from such support. FW&A client companies and others must heavily rely upon these mechanisms for the continued provisioning of high quality services to their telecommunications consumers.

General Comments

FW&A urges this Commission to proceed with great caution and careful consideration as to any modifications, changes and/or restructuring of access charges, and resulting funding mechanisms, which may be implemented that could negatively impact the smaller rural carriers. The Commission should not apply policies and procedures to rate-of-return companies which are experimental in nature merely with the idealistic hope of creating competition in rural areas. Small companies, like FW&A client companies, who serve a very limited residential customer base located in sparsely populated rural areas experience, costs of services well in excess of companies in urban areas. They do not currently, nor will not in the future, have sufficient margins to withstand the application of experimental procedures in their vital access price recovery. This is due to

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State Joint Board on Universal Service, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd 8776 (1997) (*Universal Service Order*).

the fragile and volatile nature of the relationship between the high cost of providing service and the limited opportunity to recover such costs. Any change to the access recovery level that is perceived by some as small and inconsequential can have a substantial and greatly magnified negative effect upon these small companies. As applied to smaller companies, these changes cause significantly greater revenue impacts and can possibly create unrecoverable losses, than when applied to large companies.

The Commission should, therefore, allow time for the implementation and assessment of its previous access charge reform with regard to price cap companies before considering instituting modifications and/or changes for rate-of-return companies. These recently instituted changes may themselves create devastating and unintended results in the marketplace. Unlike the larger companies, small companies have little, if any, opportunity to recover access revenue losses and may ultimately be forced to institute disproportionate increases in local service rates in order to compensate for the losses created by changes in access cost recovery processes.

The Commission's focus should remain on the consumer (their current services and price levels), and not on the creation of "competition merely for competition's sake" with its dilatorious results. FW&A client companies, like most other small rural carriers, are receiving little or no pressure to change the services and related prices currently being offered to their customers. This is due in large part to the fact that their respective customers are currently provided a wide range of high quality services at reasonable and affordable rates. These services are comparable to or exceed those offered to urban customers of the larger carriers. Further, we see no evidence to date that competition has added new or innovative services that these companies do not currently offer to their customers.

The Telecommunications Act of 1996 ("the Act")[4] required that implicit subsidies be made explicit[5]. It in no way required a change in the payors of funding mechanisms nor did it require a change in the level of funding amounts available to existing receivers. The Commission should continue to provide incentives to small rural carriers through stable, unchanging and ongoing access charge processes and related funding mechanisms which encourage them to continue their investment in infrastructure and new technologies, thus enabling them the ability to provide the high quality, reasonably priced services currently available to their rural consumers.

Issue Specific Comments

I. Telecommunications Act Implementation

Economic Inefficiencies in the Current Structure[6]. FW&A contends that there are not significant economic inefficiencies in the current access structure. The underlying reason for the creation of the NECA pool in 1984[7] was to alleviate the risks associated with providing telecommunications services in high cost, low density territories. There is no evidence in the 15 year history of the pool that indicates that changes, modifications or restructuring should occur, or that the processes of the pool should be overturned and dismantled. This Commission should look to the modifications and restructuring process

[4] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. §§ 151 *et. seq.* (1996 Act).
[5] *See, Id.* at § 254 (e).
[6] NPRM, at ¶ 5.
[7] *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286.

previously implemented for the price cap companies[8] as an experimental laboratory within which to gather data and information in order to assess the impact of such restructuring. This would allow the Commission, and the industry, time to analyze and evaluate this new structure and elements for cost recovery, and make necessary modifications (if needed) before applying them to rate-of-return companies; which, as previously noted, will not be able to withstand the possible negative impacts of such an experimental process.

FW&A asserts that access charge reform cannot be accomplished in a vacuum, but must be done in a logical sequence including implementation of separations reform and universal service funding. The entire costing and revenue recovery system starts first with the separation of costs (Part 36). The costs determined to be subject to separations are then moved through the access charge pricing recovery mechanism. Thereafter, any additional costs, expenses or investments not adequately recovered through access charges are recovered from the high cost support system. No step in the process can be singled out and "reformed" without considering and accounting for the effects of modifications upon the rest of the process, and in the logical sequence in which costs are first identified and then priced to allow recovery of these costs[9].

Therefore, FW&A requests this Commission make no modifications to the current access charge process until such time as separations reform is completed[10]; and until such time as the Commission has had time to assess and analyze the restructuring process currently being implemented for price cap companies in order to determine the effects

[8] *See, Access Charge Reform Order*, CC Docket No. 96-262.

[9] It is therefore impossible and premature at this time to develop access charge reforms without first completing the restructuring of the separations process. *See, Jurisdictional Separations Reform and Referral to the Federal-State Joint Board,* CC Docket No. 80-286.

upon consumers and companies. FW&A also notes that the Universal Service Funding process is still currently unresolved, and any modifications and/or changes to the access charge process should be considered upon finalization, implementation and evaluation of any new USF mechanism(s).

Rural Exemption.[11] Any significant barriers to competition existing in rural areas exist because of the low profitability margins available to a new entrant proposing to serve in low density, high cost areas, and are not due to artificial barriers created by rural carriers. Historically, independent incumbent Local Exchange Carriers ("LEC") have been the only providers willing to serve these costly areas, and have done so with the provisioning of high quality services at reasonable and affordable prices based upon existing cost recovery mechanisms. These providers were granted a rural exemption in the Act, and this Commission should not put them and their consumers at risk of losing existing and/or future services or paying higher rates simply because the FCC believes restructuring access charges might help spur "competition" in certain areas. As stated earlier, the risks of restructuring access charges at this time, for the reasons stated in this NPRM, for small, rural, rate-of-return companies far outweighs any benefit which may gained from experimentation in these markets.

Cost of Serving High Cost Areas.[12] FW&A supports and agrees with the Commission's actions and policies currently in place, such as jurisdictional cost allocations, Long Term Support ("LTS") and Universal Service that have continued to support small carriers. It should be noted that there is nothing contained within these policies that is contrary to the black letter law of the Act, or its intent. It is important that

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[10] *See*, NPRM.
[11] NPRM at ¶¶ 7 and 8.

this Commission not rush to implement modifications and changes which may have detrimental impacts upon consumers, providers, and the marketplace as a whole.

II. Rate Structure Modifications

A. Carrier Common Line

Proposal to Adopt Modifications Similar to Price Cap LECs.[13] As stated earlier, the modifications for price cap companies have not been in place for a sufficient time to determine and assess their actual impact upon consumers, competitors/competition or the affected price cap Incumbent LECs. It is not necessary at this time, nor do we believe it is worth the risk to rural consumers, and rural markets, to implement a process that is not tested and proven to result in benefits to consumers.

FW&A would point out that shifting costs to the CCL rate element is not a workable solution for the smaller rate-of-return companies in maintaining the goals of the Act. While shifting costs results in price cap companies' CCL rates being lowered[14], similar cost shifts cause the rate-of-return providers' CCL rates to increase[15], thereby causing greater rate disparity in blatant contradiction of provisions of the Act[16]. FW&A would note that in paragraphs 36-40, the FCC cites its own evidence of rate disparity[17].

If the Commission ultimately determines that certain costs must be shifted to the CCL, FW&A would urge that the Commission find that the PICC/SLC charge for

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[12] *Id.* at ¶¶ 19-21.
[13] NPRM at ¶¶ 26-35.
[14] *Access charge Reform,* CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997) (*Access Charge Reform Order)*; Order on Reconsideration, 12 FCC Rcd 10119 (1997).
[15] *See,* NPRM.
[16] *See,*Telecommunications Act of 1996, at § 254 (b)(3).
[17] *See,* NPRM at ¶¶ 36-40.

rate-of-return carriers be capped at the price cap company national average level. This would help reduce future price disparity levels.

PICC.[18] FW&A asserts that, in theory, the PICC can be an effective cost recovery mechanism for shifting LECs' common line costs from a per minute to a per line method of recovery and in reducing CCL rates[19]. However, in our opinion, it has not been implemented properly by the interexchange carriers ("IXCs"), and is now viewed more like a Subscriber Line Charge ("SLC") since the IXCs are passing these through to the end-user. It is FW&A's belief that pass through to the end user was not, and should not, be the intent of this Commission.

Residential and Business Lines.[20] PICCs should be the same flat-rate amount for business or residential lines. The PICC is not based upon either the concept of value of service nor cost of service, but merely upon end-users having a network access line. The PICC was artificially created by the FCC to take an implicit cost from access charges and make it an explicit cost to IXCs to reduce the per minute of use access charge rate. There is no determination needed regarding the type of line (business or residence), only the number of lines to which the PICC is applied. This flat-rate, per line method would therefore eliminate the need to distinguish between business and residential lines and also between primary and secondary lines, which in some instances is impossible and at the very least uneconomic and inefficient.

One Approach vs. Multiple Approaches for Rate-of-Return LECs.[21] One approach should be adopted for all rate-of-return LECS due to the use of a common

[18] *Id.* at ¶ 41.
[19] *See, Access Charge Reform Order,* CC Docket No. 96-262.
[20] NPRM at ¶ 42.
[21] *Id.* at ¶ 45.

pool (i.e. NECA pool). However, the smallest companies have varying and unique concerns differing even from the other small rate-of-return companies within the NECA pool. These companies are considered "outliers" and may need careful handling and consideration within the NECA processes.

B. Local Switching

Dedicated Facilities/Applicability to Rate-of-Return LECs.[22] FW&A does not support any shift of costs to the CCL due to the increasing level of rate disparity created between price cap companies and rate-of-return companies.

Shared Facilities.[23] FW&A supports the Commission's decisions regarding shared facilities in that they are logical, necessary and recognize required changes to the network.

C. Transport Interconnection Charge ("TIC")

Applicability to Rate-of-Return LECs.[24] FW&A does not support the immediate elimination of the TIC. At this point in time, there remain too many "unidentified costs" within the TIC. FW&A would suggest deference to the National Exchange Carrier Association on how best to resolve long-term issues associated with the ultimate resolution of the TIC and its related cost recovery in the access process. However, if the Commission determines that any modifications to the TIC are necessary at this time, FW&A urges careful consideration and caution to not unduly burden the rate-of-return carriers' access rate payors or negatively impact cost recovery.

[22] *Id.* at ¶¶ 54 and 55.
[23] *Id.* at ¶¶ 57-59.
[24] *Id.* at ¶¶ 70-72.

D. SS7 Signalling

Applicability to Rate-of-Return LECs.[25] FW&A supports the Commission's decision to continue the existing rate structure for SS7 cost recovery by rate-of return LECs, with an option structure to reflect Ameritech's SS7 rate structure. NECA should be given sufficient time to develop any and all necessary revisions to the cost allocation rules in Part 69 to accommodate the provision of SS7 signalling in accordance with the provisions of the Ameritech SS7 waiver.[26]

III. Other Issues

A. General Support Facility (GSF) Costs.[27] FW&A does not support any shift of the GSF to billing and collection. Small rate-of-return companies generally have existing fixed-priced contracts regarding billing and collection, which would preclude them from additional recovery mechanisms if additional costs are assigned to this area.

B. Marketing Expenses.[28] Marketing Expenses are *de minimus* in the existing cost structures and cost recovery mechanisms of FW&A clients. FW&A is opposed to adding any additional costs to the CCL, or other shifts of marketing expenses from its current assignment.

C. Special Access.[29] FW&A does not support the application of a PICC to special access services offered by rate-of-return companies. As stated earlier, FW&A does not believe that PICCs have been implemented properly, and therefore, additional PICCs would not be appropriate at this time.

[25] *Id.* at ¶ 77.
[26] *Id.* at ¶ 78.
[27] *Id.* at ¶¶ 79-82.
[28] *Id.* at ¶¶ 83-86.

Conclusion

FW&A respectfully urges this Commission to exercise great caution in considering and/or imposing changes and/or modifications at this time to the access charge processes as they relate to small, rural, rate-of-return carriers. Any changes or modifications made to the processes of rate-of-return companies similar to those imposed on price cap companies, without thorough review of the impacts, both positive and negative, upon the consumers, competitors and competition, is both risky and dangerous to the current stability of service quality, service offerings and pricing levels in the marketplace of the smaller companies. FW&A client companies, like most other small, rural carriers provide high quality services at reasonable rates that are comparable or exceed services offered by larger carriers to consumers in urban areas. This Commission should not force changes in the access charge process where there is no evidence that changes are needed, especially when such changes may have unintended harmful effects in the marketplace.

However, should it ultimately be determined that access charge changes and/or modifications be considered and/or imposed, FW&A urges this Commission to make them in a sequentially appropriate manner beginning with the completion of the pending Separations Reform Docket. Additionally, the Universal Service Funding mechanism revisions have not been completed, nor has any analysis and/or assessment of all these newly revised processes been performed. Separations reform and universal service funding play a significant role in the proper restructuring of the access charge processes. All three elements are linked together as parts of a complete cost/revenue recovery system and must not be considered by this Commission individually or in a vacuum.

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[29] *Id.* at ¶ 90.

FW&A strongly advocates allowing an adequate passage of time after the completion of separations reform and universal service restructuring efforts. Adequate time beyond the recent implementation of the access charge restructuring for price cap companies is also needed to analyze and evaluate these results before any similar or related proposals are applied to the smaller, rate-of-return, rural carriers. This must be done so as not to inadvertently create negative impacts upon consumers, service providers or to the intent of the Telecommunications Act.

Respectfully submitted,

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